

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September, 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<b>I.(a) PLAINTIFF</b> <i>Mentor Graphics Corp.</i>	<b>DEFENDANT</b> <i>International Electronic Machines Corp. and William Peabody</i>
<b>(B) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF</b> <u>CLACKAMAS COUNTY, OR</u> (EXCEPT IN U.S. PLAINTIFF CASES)	<b>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT</b> <u>ALBANY</u> (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
<b>(C) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)</b>  <b>ANDREW C. ROSE, ESQ.</b> <b>NIXON PEABODY LLP</b> <b>30 S. Pearl Street, Omni Plaza, Suite 900t</b> <b>Albany, NY 12207 (518) 427-2650</b>	<b>ATTORNEYS (IF KNOWN)</b>

<b>II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)</b>  <input type="checkbox"/> 1 U.S. Government Plaintiff  <input type="checkbox"/> 2 U.S. Government Defendant  <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) (For Diversity Cases Only) <table style="width:100%; border: none;"> <tr> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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<b>IV. ORIGIN</b> (PLACE AN "X" IN ONE BOX ONLY)
<input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify) _____ <input type="checkbox"/> 6 Multidistrict Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment

<b>V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)</b>					
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<b>VI. CAUSE OF ACTION</b> (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.) <u>COPYRIGHT INFRINGEMENT, 17 U.S.C. §101 ET SEQ.</u>	
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<b>VII. REQUESTED IN COMPLAINT:</b>	<b>CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23</b> <input type="checkbox"/>	<b>DEMAND</b> Injunction and statutory damages	<b>CHECK YES only if demanded in complaint:</b> <b>JURY DEMAND:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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<b>VIII. RELATED CASE(S) IF ANY</b> (See instructions): None	Judge: _____	Docket Number: _____
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DATE <b>January 17, 2006</b>	SIGNATURE OF ATTORNEY OF RECORD: <b>ANDREW C. ROSE, ESQ.</b> 
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<b>FOR OFFICE USE ONLY</b>				
RECEIPT # _____	AMOUNT _____	APPLYING IFP _____	JUDGE _____	MAG. JUDGE _____

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# UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

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MENTOR GRAPHICS CORP.,

## SUMMONS IN A CIVIL CASE

-vs-

CASE NUMBER:

INTERNATIONAL ELECTRIC MACHINES CORP.  
And WILLIAM PEABODY,

TO:

International Electronic Machines Corp.  
60 4<sup>th</sup> Avenue  
Albany, NY 12202

William Peabody  
International Electronic Machines Corp.  
60 4<sup>th</sup> Avenue  
Albany, NY 12202

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

**NIXON PEABODY LLP  
OMNI PLAZA, SUITE 900  
30 SOUTH PEARL STREET  
ALBANY, NEW YORK 12207**

an answer to the complaint which is herewith served upon you, within **twenty (20)** days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

\_\_\_\_\_  
CLERK

\_\_\_\_\_  
DATE

\_\_\_\_\_  
(BY) DEPUTY CLERK

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

MENTOR GRAPHICS CORP.,

Plaintiff,

vs.

INTERNATIONAL ELECTRONIC  
MACHINES CORP. and WILLIAM  
PEABODY,

Defendants.

COMPLAINT FOR  
COPYRIGHT INFRINGEMENT

Civil Action No.

DEMAND FOR TRIAL BY JURY

Mentor Graphics Corporation, by and through its undersigned counsel, respectfully makes the following allegations for its Complaint against IEM Corporation and William Peabody. These allegations are made upon knowledge with respect to Plaintiff and its own acts, and upon information and belief as to all other matters.

**INTRODUCTION**

1. This is a simple case of software piracy. Mentor Graphics Corp. (hereinafter sometimes referred to as “Mentor Graphics” or “Plaintiff”) is a technology leader in electronic design automation. Among other things, Mentor Graphics provides software that enables companies to develop better electronic products faster and more cost-effectively. Defendants make electronic products for the transportation industry, and use Mentor Graphics software.

2. In the late 1990s, IEM purchased a license to run a single instance of Mentor Graphics software. Defendants later decided that they wanted to have additional access to Mentor Graphics’ software without paying for additional license rights. To that end, rather than paying for additional licenses, Defendants decided to circumvent Mentor Graphics’ copy

protections using a “Crack” file – so-called because it “cracks” the technology intended to protect software against such piracy.

3. Defendants’ illegal circumvention of one or more copy protections used on Mentor Graphics software, and their illegal modification, installation, use, display, and generation of unauthorized copies of that software, are the causes of this action.

### **THE PARTIES**

4. Mentor Graphics is a corporation organized and existing under the laws of the State of Oregon, with a principal place of business at 8005 SW Boeckman Road, Wilsonville, OR 97070.

5. International Electronic Machines Corporation sometimes publicly identifies itself as “IEM” or “IEM Corp.”

6. International Electronic Machines Corporation (hereinafter sometimes referred to as “IEM”) is a corporation organized and existing under the laws of the State of Delaware, with a principal office in Albany, New York.

7. IEM’s registered agent is Corporate Agents, Inc., 2711 Centerville Road Suite 400, Wilmington DE 19808.

8. William Peabody is a manager employed by IEM in Albany, New York.

### **JURISDICTION**

9. This action arises under the Copyright Laws of the United States, 17 U.S.C. § 101 *et seq.*. This Court has jurisdiction under the provisions of 28 U.S.C. §§ 1331, 1332, 1338(a), and 17 U.S.C. § 1203.

### GENERAL ALLEGATIONS

10. Mentor Graphics makes a wide variety of products for use in designing, verifying, and testing electronic designs. One product suite Mentor Graphics offers is devoted to helping with the design of printed circuit boards, or “PCBs.”

11. PCBs are found in a wide range of products, from computers and DVD players to airplanes and cell phones. Mentor Graphics software can be used to help design a complex PCB or a relatively simple one.

12. One step in the PCB design process is “layout” – deciding where different components of the circuit will be “laid out” on the board. The illegally copied software at issue in this case includes at least Mentor Graphics’ PADS PowerPCB® software, which helps automate the task of PCB layout.

13. Defendants have made and executed copies of one or more PADS PowerPCB® software programs in violation of Title 17 of the United States Code.

14. Defendants have acquired a license generation file for the sole purpose of executing, or running, PADS PowerPCB software on personal computers without a valid license.

15. Mentor Graphics owns the copyright in the PADS PowerPCB software improperly used by Defendants Peabody and IEM. The copyright in the PADS PowerPCB software is registered in material part as Copyright Registration No. TX-4-293-783 (titled “PADS-PowerPCB”).

16. IEM’s and Peabody’s acts of infringement, unless enjoined by this Court, will continue to cause Plaintiff to sustain irreparable damage, loss and injury, for which Plaintiff has no adequate remedy at law.

17. Defendants have used unlicensed PADS PowerPCB software to perform services for their customers, including generation of PCB designs for electronic devices.

**COUNT I**

**(Copyright Infringement)**

18. Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs, with the same force and effect as if repeated in full here.

19. This cause of action arises under Section 501 et al. of Title 17 U.S.C.

20. Defendants have committed multiple acts of copyright infringement involving PADS PowerPCB software.

21. Defendants either received or created the CD they used to install copies of PADS PowerPCB software and generate unauthorized licenses onto unlicensed computers.

22. Defendants installed copies of PADS PowerPCB software on computers in IEM's facility in New York in 2005 and executed that software without a valid license on those computers.

23. William Peabody has personally directed the installation and unauthorized use of PADS PowerPCB software, and stood to gain directly from that misconduct financially.

24. IEM's and William Peabody's actions in unauthorized use of PADS PowerPCB software were willful and in knowing violation of Plaintiff's copyrights.

25. Each Defendant knew that it was generating and using unauthorized licenses of PADS PowerPCB software when it executed those copies.

26. IEM Chief Executive Officer Zahid Mian knew at least by 2005 that IEM had executed copies of PADS PowerPCB software on computers used to do IEM-related work without valid, authorized licenses.

27. Defendants' acts of infringement, unless enjoined by this Court, will continue to cause Plaintiff to sustain irreparable damage, loss and injury, for which Plaintiff has no adequate remedy at law.

## **COUNT II**

### **(Improper Circumvention of Copy-Protection Technology)**

28. Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs, with the same force and effect as if repeated in full here.

29. This cause of action arises under Section 1201 et seq. of Title 17 U.S.C.

30. Defendants' actions represent a violation of the anti-circumvention provisions of the DMCA (Digital Millenium Copyright Act), as codified in e.g. 17 U.S.C. § 1201 et seq.

31. The PADS PowerPCB software that Defendants illegally copied was protected by at least one technological measure that effectively controlled access to that software.

32. Defendants successfully circumvented the technological measure(s) protecting the PowerPCB software.

33. Defendants' acts of infringement, unless enjoined by this Court, will continue to cause Plaintiff to sustain irreparable damage, loss and injury, for which Plaintiff has no adequate remedy at law.

## **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff Mentor Graphics respectfully prays for judgment as follows:

1. That Defendants and their officers, agents, servants, employees, attorneys and all other persons in active concert or participation with any Defendant who receive actual

notice or knowledge of this injunction by personal service or otherwise, be preliminarily and permanently enjoined:

a. from reproducing Mentor Graphics' copyrighted work without a license;

b. from preparing derivative works from Mentor Graphics' copyrighted work without a license;

c. from displaying Mentor Graphics' copyrighted work without a license;

d. from directly or indirectly using, licensing, offering for sale, or otherwise exploiting any works created using Mentor Graphics' copyrighted software;

e. from directly or indirectly continuing to benefit in any manner from past infringing use of Mentor Graphics' copyrighted software;

f. from otherwise infringing upon Plaintiff's copyright rights in the Mentor Graphics' copyrighted software.

2. That Defendants, their officers, agents, servants, employees, attorneys and all other persons in active concert or participation with any Defendant who receives actual notice or knowledge of this injunction by personal service or otherwise, be preliminarily and permanently enjoined:

a. from circumventing a technological measure that effectively controls access to Mentor Graphics' copyrighted software; and

b. from the manufacturing, importing, offering to the public, providing, or otherwise trafficking in any technology, product, service, device, component, or part thereof, that is primarily designed or produced for the purpose of circumventing protection



afforded by a technological measure that effectively protects Mentor Graphics' copyrighted software;

c. from otherwise violating 17 U.S.C. §§ 1201-02 with respect to Mentor Graphics' copyrighted software.

3. An order under 17 U.S.C. §§ 1203 impounding every device and product that is in the custody or control of IEM that was involved in a violation of 17 U.S.C. §§ 1201 or 1202, and ordering the remedial modification or the destruction of the same.

4. That each Defendant file with this Court and serve on Plaintiff, within 30 days after service on Defendants of such injunction (or such extended period as this Court may direct), a report in writing and under oath, setting forth in detail the manner and form in which it has complied with this injunction.

5. That Defendants pay Mentor Graphics actual damages and profits, or statutory damages, as provided by 17 U.S.C. § 1203.

6. That if elected by Plaintiff, it recover statutory damages for each violation of 17 U.S.C. § 1201 in the sum of \$2,500 per act of circumvention, device, product, component, offer, or performance of service, as the court considers just.

7. That if elected by Plaintiff, it recover statutory damages for each violation of 17 U.S.C. § 1202 in the sum of \$25,000.

8. That in accordance with 17 U.S.C. § 503, Defendants deliver up to Plaintiff for destruction or other disposition all media of any kind containing any unlicensed copies of the Mentor Graphics' copyrighted software, including the computers on which the software was improperly installed, and all copies of any CD or other device used to make the improper installations of Mentor Graphics' copyrighted software .

9. That IEM be required to immediately account to Plaintiff for all gains, profits and advantages derived from its wrongful acts, pursuant to 17 U.S.C. § 504 and § 1203.

10. That Defendants pay Mentor Graphics its actual damages, or statutory damages, as provided by 17 U.S.C. § 504.

11. That if elected by Plaintiff, it recover statutory damages for each violation of 17 U.S.C. § 501 in the sum of \$150,000 under 17 U.S.C. § 505(c)(1) and (c)(2).

12. That in view of the knowing, willful and deliberate nature of Defendants' wrongful acts, Defendants pay Plaintiff's costs and disbursements in this action, together with its reasonable attorneys' fees, pursuant to 17 U.S.C. § 505 and § 1203.

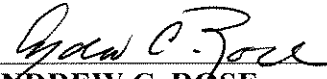
13. That Plaintiff have such other and further relief as the Court may deem just and proper.

**JURY TRIAL DEMAND**

Plaintiff hereby makes demand for a trial by jury pursuant to Fed. R. Civ. P. 38 as to all issues herein so triable.

Dated: January 17, 2006

NIXON PEABODY LLP

By:   
**ANDREW C. ROSE**  
Bar Roll No.: 102473  
E-Mail: [acrose@nixonpeabody.com](mailto:acrose@nixonpeabody.com)

Omni Plaza, Suite 900  
30 South Pearl Street  
Albany, New York 12207  
Phone: (518) 427-2650

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